UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,222	03/01/2004	Geoffrey Outhred	MS1-2019US	3945

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EXAMINER
BATES, KEVIN T

ART UNIT	PAPER NUMBER
2153	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/791,222	OUTHRED ET AL.
Office Action Summary	Examiner	Art Unit
	KEVIN BATES	2153

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>16 July 2008</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-14</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-14</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>8-26-08</u>.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

Response to Amendment

This Office Action is in response to a communication filed on July 16, 2008.

The Information Disclosure Statement filed August 26, 2008 has been

considered.

Claims 15-43 have been withdrawn as non-elected claims.

Claims 1-14 are pending in this application.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 6-14 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter.

Claim 6 is drawn to a computer readable media. Paragraph 831 of the instant

specification discloses that "communication media" is included in the scope of a

computer-readable media, thus the claim includes non-statutory subject matter.

Claim 11 is drawn to an apparatus comprising a loader and simulator. The

specification makes it clear that those modules are program modules and since the

modules are not located on or executed on hardware, then claim is directed towards

software per se.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Graupner (7035930).

Regarding claim 1, Graupner teaches a method comprising:

receiving a description of a system being designed (Col. 2, line 65 – Col. 3, line 1);

receiving a description of an environment (Col. 3, lines 1 – 5); and

using both of the received descriptions to validate the system against the environment (Col 10, line 60 Col. 11, line 1) while the system is being designed and prior to attempting to deploy the system.

Regarding claim 6, Graupner teaches one or more computer readable media having stored thereon a plurality of instructions that, when executed by one or more processors, causes the one or more processors to:

access a system description that describes a system in the process of being designed by a program running on the one or more processors (Col. 2, line 65 – Col. 3, line 1); and

validate the system, using the system description, against a simulated environment (Col 10, line 60 Col. 11, line 1).

Regarding claim 11, Graupner teaches an apparatus comprising:

a loader configured to load one or more documents describing a system, the

system being designed when the one or more documents are loaded (Col. 6, lines 1 –

10);

a simulator configured to simulate an environment of a data center and validate

the system against the environment (Col. 4, lines 39 – 50); and

the apparatus being separate from the data center.

Regarding claim 2, Graupner teaches a method as recited in claim 1, the

description of the system comprising an SDM document (Col. 2, line 65 – Col. 3, line 1;

Col 6, lines 1 - 10).

Regarding claim 3, Graupner teaches a method as recited in claim 1, the

description of the environment comprising a LIM document (Col. 3, lines 1 – 5; Col 6,

lines 1 - 10).

Regarding claim 4, Graupner teaches a method as recited in claim 1, the

system comprising a software application, and the environment comprising a data

center (Col. 2, line 65 – Col. 3, line 5).

Regarding claim 5, Graupner teaches a method as recited in claim 1, the

environment comprising an environment where the system is expected to be deployed

(Col. 4, lines 25 – 29).

Regarding claim 7, Graupner teaches one or more computer readable media as

recited in claim 6, the plurality of instructions further causing the processor to: receive,

from a requester, a request to validate the system; and return, to the requestor, a result

of the validation (Col 10, line 60 Col. 11, line 1; Col. 8, lines 26 – 32).

Regarding claim 8, Graupner teaches one or more computer readable media as recited in claim 6, wherein the instructions that cause the one or more processors to validate the system against the simulated environment further cause the one or more processors to:

select a top-level definition from the system description;

generate an appropriate instance, as described by the top-level definition, for an instance space;

select an additional definition nested within the top-level definition;

generate an appropriate instance, as described by the additional definition, for the instance space based on whether the selected definition defines an object or a relationship; and

continue the selection of an additional definition and the generation of an appropriate instance, as described by the additional definition, until instances for all of the definitions nested within the top-level definition have been generated for the instance space (Col. 3, lines 4 – 26; Col. 6, lines 1 – 24).

Regarding claim 9, Graupner teaches one or more computer readable media as recited in claim 6, wherein the instructions that cause the one or more processors to validate the system against the simulated environment further cause the one or more processors to: identify one or more flows in an instance space, the instance space describing the system; for each of at least one of the one or more flows: identify one or more input values for the flow, the input values being obtained from other instances of

the instance space; and generate, based at least in part on the input values, an output

value for the flow (Col. 10, lines 12 – 44; Col. 11, line 15 – 67).

Regarding claim 10, Graupner teaches one or more computer readable media

as recited in claim 6, wherein the instructions that cause the one or more processors to

validate the system against the simulated environment further cause the one or more

processors to: identify one or more constraints in an instance space, the instance space

describing the system; check whether the one or more constraints are satisfied; and

return, for each of the one or more constraints, a value indicating whether the constraint

is satisfied (Col. 10, lines 60 – 61; Col. 7, lines 4 – 41).

Regarding claim 12, Graupner teaches an apparatus as recited in claim 11,

further comprising: an expansion engine to identify a top-level definition from one of the

one or more documents and expand the top-level definition to populate an instance

space by instantiating members nested in the top-level definition (Col. 3, lines 4 – 26;

Col. 6, lines 1 – 24).

Regarding claim 13, Graupner teaches an apparatus as recited in claim 12,

further comprising: a flow engine to identify flows in the instance space, identify the

values of inputs to the flows, and setting an output of the flow based on the inputs to the

flows (Col. 10, lines 12 – 44; Col. 11, line 15 – 67).

Regarding claim 14, Graupner teaches an apparatus as recited in claim 13,

further comprising: a constraint engine to identify and evaluate constraints in the

instance space (Col. 10, lines 60 – 61; Col. 7, lines 4 – 41).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KEVIN BATES whose telephone number is (571)272-3980. The examiner can normally be reached on 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin Bates/
Primary Examiner, Art Unit 2153